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MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA,)	Case No. DC-11-117
Plaintiff,)	
vs.)	MOTION IN LIMINE TO EXCLUDE
)	ANY AND ALL TESTIMONY
HARRIS HIMES,)	OF PRIOR CRIMES AND/OR BAD ACTS
Defendant.)	

COMES NOW the Defendant, Harris Himes, and moves this court for its Order excluding any attempt to introduce evidence of Count VII and/or other allegations of prior bad acts.

The Amended Information charged as Count VII a violation of the securities law alleged to have occurred over eight years ago. This charge filed by the State was subsequently dismissed by this Court. (See Court's Order Dismissing Count VII of the Amended Information dated July 30, 2012).

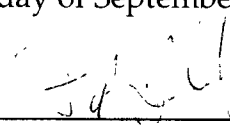
The Defendant requests that this Court issue an order directing the prosecution to refrain from mentioning any conduct pertaining to Lester and Janet Johnson. Janet Johnson is listed as a witness and her testimony would deprive the Defendant of a fair trial. This Order should apply to any and all prior bad acts. The State has given no notice of 404(b)-type evidence which was to be filed no later than June 5, 2012, according to ¶18 of the Omnibus Order.

The State has not filed any Notice of Intent to Introduce Evidence of other crimes or bad acts. Counsel respectfully asks that the State be ordered *in limine* not to attempt to introduce or mention any prior bad acts or other evidence in any manner at the Trial.

LEGAL AUTHORITY

This motion is made based upon Rules 403 and 404(b) of the Montana Rules of Evidence. The Johnsons' act is so remote in time as to be unduly prejudicial. The prejudice that would come by introducing this evidence outweighs the probative value of the evidence. Mention of any other bad acts that might be contemplated should be barred as well.

RESPECTFULLY SUBMITTED this 21 day of September, 2012.



Patrick F. Flaherty
Attorney for Defendant

CERTIFICATE OF MAILING

I, the undersigned, do hereby certify that a copy of the foregoing was duly served upon the respective attorneys for each of the parties entitled to service by depositing a copy in the United States mails, postage paid, addressed to each at their last known address as shown below, on the 21 day of September, 2012.

Jesse Laslovich / Brett O'Neil
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Montana State Auditor
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